

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**In re: VIOXX**

\*  
\* **MDL Docket No. 1657**

**PRODUCTS LIABILITY LITIGATION**

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\* **SECTION L**

**This document relates to:**

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\* **JUDGE FALLON**

**The Petition of Healthcare Recoveries,  
Inc., on Behalf of, and in Coordination  
with Numerous Health Insurers for Pre-  
Action Deposition(s) Pursuant to Federal  
Rule of Civil Procedure 27(a), No. 08-1068**

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\* **MAGISTRATE JUDGE KNOWLES**

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**MERCK & CO., INC.’S MOTION TO DISMISS**

Defendant Merck & Co., Inc. (“Merck”), through undersigned counsel, respectfully moves to dismiss the above-captioned Petition.

As set forth in the accompanying Memorandum In Support Of Motion To Dismiss, the Court should dismiss the Petition of Healthcare Recoveries, Inc., because it does not satisfy the requirements of Federal Rule of Civil Procedure 27 and is contrary to the Rule’s underlying purpose.

WHEREFORE, Merck respectfully requests that the Court dismiss the Petition of Healthcare Recoveries, Inc., on Behalf of, and in Coordination with Numerous Health Insurers for Pre-Action Deposition(s) Pursuant to Federal Rule of Civil Procedure 27(a).

Respectfully submitted,

/s/ Dorothy H. Wimberly

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**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Defendant Merck & Co., Inc.'s Memorandum in Support of Motion to Dismiss has been served on Liaison Counsel, Russ Herman and Phillip Wittmann, by U.S. Mail and e-mail or by hand delivery and e-mail, upon Steven Phillips, counsel for HRI, by e-mail, and upon all parties by electronically uploading the same to LexisNexis File & Serve Advanced in accordance with Pre-Trial Order No. 8B, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing in accord with the procedures established in MDL 1657, on this 12th day of March, 2008.

/s/ Dorothy H. Wimberly

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